

Remarks

Allowance of all claims is respectfully requested in view of the amendments and remarks submitted herewith. Claims 1-22 remain pending.

In the initial Office Action, claims 1-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kotter ("Leading Change: Why Transformation Efforts Fail", Harvard Business Review, Reprint 95295, March-April 1995, pp. 59-67; hereinafter Kotter) in view of Attenello ("Re-Engineering to Achieve Breakthrough Results", TMA Journal, Atlanta: Mar/Apr 1995, Vol. 15, Issue 2, pg. 6; hereinafter Attenello); claims 6, 7 & 9-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ryan ("Avoid Hit-or-Miss Hiring", HR Magazine, Alexandria, November 1998; hereinafter Ryan) in view of Kotter; claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ryan in view of Attenello; claims 11 & 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ryan in view of Kotter and further in view of Herman ("Stability is Watch Word for Effective Workforce", HR Focus, New York, June 1999; hereinafter Herman); claims 13 & 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ryan in view of Kotter in view of Herman, and further in view of Laurie ("Gift of Knowledge", Franchising World, Washington, September/October 1999, Vol. 31, Issue 5, page 35; hereinafter Laurie); and claims 15-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kotter in view of Attenello in view of Robbins ("Organizational Behavior", Printus Hall, Upper Saddle River Company, New Jersey, 1998, pp. 595-616; hereinafter Robbins). Each of these rejections is respectfully traversed to any extent deemed applicable to the claims presented herewith, and reconsideration thereof is requested.

Applicants recite in independent claims 1, 6 & 15 particular methods for effecting improvement of an organization. These methods are patentably distinct from the teachings of the applied art in a number of aspects. For example, the independent claims recite *ascertaining through research with customers of the organization desired characteristics for the organization from a customer perspective*. Cited against this characterization of Applicants' protocol is the customer satisfaction surveys used as a means of creating a sense of urgency in Kotter at page 60, paragraph 8. Page 60, paragraph 8 of Kotter states:

In a few of the most successful cases, a group has manufactured a crises. One CEO deliberately engineered the largest accounting loss in the company's history, creating huge pressures from Wall Street in the process. One division president commissioned first-ever customer-satisfaction surveys, knowing full well that the results would be terrible. He then made these findings public. On the surface, such moves can look unduly risky. But there is also risk in playing it too safe: when the urgency rate is not pumped up enough, the transformation process cannot succeed and the long-term future of the organization is put in jeopardy.

As taught by Kotter, the customer-satisfaction surveys were commissioned after the CEO deliberately engineered the largest accounting loss in the company's history. In Kotter, improvement of the organization is initiated by a leader to see the need for a major change (see page 60, paragraphs 5 & 7 of Kotter). Thus, the customer-satisfaction surveys in Kotter do not *initiate* the protocol for improving the organization. Rather, in Kotter, the customer-satisfaction surveys are taken *after* the CEO deliberately engineered a large accounting loss. No such perquisite is recited in Applicants' protocol.

More specifically, the customer-satisfaction surveys in Kotter do not result in ascertaining *desired characteristics for the organization from a customer perspective*. Rather, the customer-satisfaction surveys in Kotter merely documented the well known terrible results of the organization. This customer-satisfaction survey in Kotter does not equate to ascertaining *desired characteristics for the organization* from the customer perspective. For at least this reason, Applicants respectfully submit that the independent claims presented patentably distinguish over the applied art. In each of the independent claims, Applicants recite ascertaining *desired characteristics for the organization from a customer perspective* through research with customers of the organization.

In addition, Applicants' independent claims further recite obtaining or defining *cultural characteristics for the organization using*, at least in part, the desired characteristics ascertained through research with the customers of the organization. In contrast, Kotter does not teach or suggest ascertaining *cultural characteristics* per se. Cultural characteristics can be defined as a set of shared beliefs that people have about what they are doing and why. Cultural characteristics are distinct from standard operating procedures. Cultural characteristics add in latitude for improvisation, and unique action. Cultural characteristics are the underlying foundation that direct decisions when everything else is changing within an organization.

The visions and strategies discussed by Kotter at pages 61 & 63 do not equate to *cultural characteristics*, as the phrase is employed in the present application and understood in the art. A cultural characteristic is more a purposeful or goal-driven behavior that appears dictated by a sense of who we are and what we want to become. A cultural characteristic is distinct from a vision or strategy which may represent requirements of an employee to, for example, to improve productivity. As a further example, a vision or strategy might be to have an employee achieve X number of sales in a given time period. This is contrasted with a cultural characteristic, which relates more to the set of beliefs held by the employees as to what they are doing and why. A careful reading of the applied art fails to uncover any discussion of cultural characteristics, let alone their use in effectuating improvement of an organization, as recited in Applicants' independent claims. For at least this reason, Applicants respectfully submit that the independent claims presented patentably distinguish over the applied and known art.

Further, Applicants' protocol recites in, for example, independent claim 1, *employing leadership of the organization to define cultural characteristics for the organization using, at least in part, the desired characteristic ascertained through research with the customers of the organization*. Applicants' claims also recite defining by the leadership of the organization the cultural characteristics in behavioral terms. Since the applied art does not teach or suggest defining cultural characteristics for the organization *per se*, there is clearly no teaching or suggestion of employing leadership of the organization in *defining the cultural characteristics* for the organization *using, at least in part, the desired characteristics ascertained through research with the customers* of the organization. In this regard, Applicants respectfully submit that Kotter is simply not relevant to their recited protocol.

Still further, Applicants' claims recite defining by leadership of the organization the cultural characteristics in behavioral terms. This defining of cultural characteristics for the organization in behavioral terms occurs *before* there is an identification of defined cultural characteristics which are not present in the organization or present characteristics which are inconsistent with the defined cultural characteristics, and before generating of an action plan for changing the organization. The only behavior discussed in Kotter occurs after the fact. At page 61, paragraph 8, and page 67, paragraph 3, wherein new behaviors are evaluated to ascertain whether performance improvement has been achieved. For this additional reason, Applicants

respectfully submit that the protocol recited in the claims presented patentably distinguishes over the applied art.

With respect to independent claim 1, the Office Action acknowledges that Kotter does not disclose validating the “characteristics and action plan” with a focus group. Applicants agree with this statement in general, but point out that Applicants’ protocol describes validating the *cultural* characteristics *expressed in behavioral terms*, as well as the at least one action plan. In this regard, Applicants respectfully submit that the Office Action fails to address Applicants’ recited protocol. The characteristics at issue in Applicants’ protocol are the *cultural* characteristics for the organization, which are characteristics that are not addressed in Kotter. Attenello does not teach or suggest the above-noted deficiencies of Kotter when applied against the independent claims presented. Attenello discloses a re-engineering approach for re-engineering work and processes (page 1, paragraphs 2, 5 of Attenello). This is distinct from Applicants’ recited protocol, which addresses cultural characteristics expressed in behavioral terms. A careful reading of Attenello fails to uncover any teaching or suggestion of validation of cultural characteristics expressed in behavioral terms *per se*. For at least this reason, Applicants respectfully submit that the claims presented patentably distinguish over the applied art.

With respect to independent claim 6, and the rejection thereof under 35 U.S.C. §103(a) as being unpatentable over Ryan in view of Kotter, Applicants respectfully submit that Ryan does not teach or suggest the above-noted deficiencies of Kotter when applied against the claim at issue. Applicants’ amended claim 6 recites obtaining *cultural characteristics for an organization expressed in behavioral terms*. Further, Applicants’ protocol recites that the cultural characteristics for the organization are obtained employing *desired characteristics for the organization from a customer perspective ascertained through research with customers of the organization*. A careful reading of Ryan and Kotter fail to uncover any teaching or suggestion of this aspect of Applicants’ process. Ryan addresses evaluation of a candidate’s skills and/or education (see page 3, paragraph 13 of Ryan), but not *behaviors*. A careful reading of Ryan fails to uncover any discussion of asking a candidate to demonstrate their cultural characteristics or values described in behavioral terms. This is a significant difference between Applicants’ recited protocol and the teachings of Ryan and Kotter.

More particularly, a careful reading of Ryan fails to uncover any discussion of generating cultural characteristics for the organization by employing desired characteristics for the organization from a customer perspective ascertained through research with customers of the organization. During a hiring interview, Applicants' protocol recited in claim 6 recites that the applicant is requested to relate past behavior to the cultural characteristics of the organization. If there is a sufficient degree of match, then the applicant is hired. Again, in Applicants' protocol, it is the *cultural characteristics* for the organization expressed in behavioral terms that are being uniquely employed in the hiring process. Further, these cultural characteristics for the organization expressed in behavioral terms are ascertained by employing desired characteristics from the organization *from a customer perspective ascertained through research with customers* of the organization. No such teaching or suggestion is provided by Ryan and Kotter, either alone or in combination.

For at least the above-noted reasons, Applicants respectfully submit that the independent claims presented patentably distinguish over the teachings of Kotter, Attenello, Ryan and Robbins (cited with respect to claim 15), either alone or in combination. Applicants' independent claims patentably distinguish over these references by reciting a protocol that includes ascertaining through research with customers of the organization *desired characteristics of the organization from a customer perspective*, and then defining *cultural characteristics for the organization* using, at least in part, the desired characteristics ascertained through research with the customers of the organization. In Applicants' protocol, the process is customer-driven and examines the organization by looking from the outside of the organization, rather than looking internally from the organization.

The dependent claims are believed allowable for the same reasons as the independent claims, as well as for their own additional characterization. In this regard, Applicants respectfully submit that a careful reading of Herman and Laurie fails to uncover any of the above-noted deficiencies of Kotter, Attenello, Ryan and Robbins, when applied against the claims presented.


With respect to claims 11 & 12, Applicants respectfully submit that Herman does not teach or suggestion hiring applicants having behaviors that match the *cultural characteristics* of the organization, let alone cultural characteristics as defined in independent claim 6. In Applicants' protocol, how results are obtained is more important than simply discussing the results obtained.

With respect to claims 13 & 14, and the citation of Laurie, Applicants respectfully submit that Laurie is not relevant to Applicants' recited protocol. The training discussed in Laurie is technical for a general knowledge training available to any company. Training employees on cultural characteristics of an organization (such as recited by Applicants) and the resulting behavioral manifestations in everyday work would be considered intellectual capital of the organization, and clearly would be held confidential in-house. Outsourcing this information to a training company such as described by Laurie would be unlikely.

For at least the above-noted reasons, Applicants respectfully submit that the claims presented patentably distinguish over the applied art and are in condition for allowance, and such action is respectfully requested.

Should any issue remain unresolved, however, Applicants' undersigned representative requests a telephone interview with the Examiner to further discuss the matter in the hope of advancing prosecution of the subject application.

Respectfully submitted,


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